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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,991	07/04/2006	Angel Palacios		4195

7590   02/02/2010

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EXAMINER
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ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
02/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/596,991	PALACIOS, ANGEL
	Examiner	Art Unit	
	PETER R. EGLOFF	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2009*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,14,17,18,20,23,32,36,39,40 and 48-58* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,14,17,18,20,23,32,36,39,40 and 48-58* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   In response to the amendment filed 13 November 2009, claims 1, 14, 17, 18, 20, 23, 32,

36, 39, 40 and 48-58 remain pending.

The amendments to the specification filed 31 July 2009 have been entered.

Claim Objections

2.   Claims 1, 23, 57 and 58 are objected to because of the following informalities: Due to the

amendments to these claims, claims 1 and 23 are missing a sub-heading b), and claims 57 and

58 are missing a sub-heading c). Appropriate correction is required.

Claim Rejections - 35 USC § 101

3   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent
> therefor, subject to the conditions and requirements of this title.

Claims 23, 32, 36, 39, 40, 54, 55 and 56 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter. In order for a claimed process to be

considered statutory it must be: (1) tied to a particular machine or apparatus, or (2) transform a

particular article into a different state or thing. The use of a specific machine or transformation of

an article must impose meaningful limits on the claim's scope to impart patent-eligibility; the

involvement of the machine or transformation in the claimed process must not merely be

insignificant extra-solution activity; and any transformation must be central to the purpose of the

claimed process. In the instant case, independent claim 23 recites the steps of inspecting,

reproducing, choosing, and generating, but does not recite a specific machine or apparatus (such

as a computer presenting the visual and audible prompts through a monitor, speakers, etc.), that

would create a sufficient tie to another statutory class. The statement in the preamble that the

method is executed on an electronic system is insufficient to create such a tie; the claim must

recite how each step of the method is performed by or tied to the claimed apparatus. The claim

also fails to transform an article into a different state or thing. Claims 32, 36, 39, 40, 54, 55 and 56

are rejected for inheriting the deficiency of their parent claim, 23.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

> 1.   Determining the scope and contents of the prior art.
> 2.   Ascertaining the differences between the prior art and the claims at issue.
> 3.   Resolving the level of ordinary skill in the pertinent art.
> 4.   Considering objective evidence present in the application indicating obviousness
>   or nonobviousness.

6.   Claims 1, 10, 18, 23, 32, 40, 48- 51 and 53 and 56 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Cox (US Patent No. 5,336,093) in view of Mejia (US Patent No.

7,011,525 B2).

Regarding claims 1 and 23, Cox discloses a system for facilitating language learning

wherein said system is used upon samples of a target language, wherein each of said samples is

called in this invention original extract, said target language can be a foreign language or it can

be the native language of the learner, wherein said system comprises:

a) means to show one or more blind extract for at least one of said original extracts

(dots), wherein a blind extract is a graphical entity whose fragments have certain correspondence

with fragments of an original extract, said original extract being associated to said blind extract

(column 3, lines 31-34), a blind extract might contain one or more fragments, the fragments of a

blind extract are created by replacing the letters of said fragments of said original extract by graphical objects that are different from the letters of said target language (see Fig. 1),

c) means to choose at least a fragment of a blind extract wherein said fragment is associated to a fragment of an original extract (select a dot – column 3, lines 64-67),

d) means to generate information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said system can be used in isolation or as a complement to other language orientated systems, for facilitating foreign language learning or for correcting a problem in the utilization of the native language (as per claim 1),

a method for facilitating language learning, said method being executed upon one or more computerized or non computerized electronic systems, wherein said method is used upon samples of a target language, wherein each of said samples is called in this invention original extract, said target language can be a foreign language or it can be the native language of the learner, wherein said method comprises the steps of:

a) inspecting one or more blind extracts (dots) for at least one of said original extracts, wherein a blind extract is a graphical entity whose fragments have certain correspondence with fragments of an original extract, said original extract being associated to said blind extract (column 3, lines 31-34 - see Fig. 1), a blind extract might contain one or more fragments, the fragments of a blind extract are created by replacing the letters of said fragments of said original extract by graphical objects that are different from the letters of said target language (see Fig. 1)

c) choosing at least a fragment of a blind extract of said blind extracts wherein said fragment is associated to a fragment of an original extract of said original extracts (column 3, lines 64-67),

d) generating information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said system can be used in isolation or as a complement to other language orientated systems, for facilitating foreign language learning or for correcting a problem in the utilization of the native language.

It is noted that Cox does not explicitly disclose: for one or more of said blind extracts which are shown, the text that is associated to said language sample is not show, so that there is no interference between text and sound (as per claims 1 and 23). However, Mejia discloses a similar system for displaying blind extracts to student learning a language, wherein during the presentation of a blind extract, the original extract is not shown to the student (column 4, line 59 - column 5, line 32; see Fig's 5, 6a, 6b and 6i). Accordingly, it would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by not showing the original extract while showing the blind extract, as taught by Mejia, with the motivation of making the student learn the sounds of a word or passage without relying on the text of the passage.

Regarding claims 18, 40, 48, 50, 51, 53, 55 and 56, Cox further discloses means to show the phrase structure of at least one of said blind extracts in some form, such as for example another type of form (Cox specifically discloses spaces in between syllables to emphasize the phrasing – see Fig. 1) (as per claims 18 and 40), said information about said fragment of an original extract is a playback of said fragment of original extract (column 3, lines 47-48) (as per claims 48 and 53), at least a blind extract which is a syllabic blind extract, whose distinguishing feature is that it is divided into parts which are differentiated visually and which correspond to the syllables of said original extract (column 3, lines 31-34) (as per claims 50 and 55), and at least a blind extract whose distinguishing feature is that it is divided into parts which are differentiated visually and which correspond to the words of said original extract (see Fig. 1) (as per claims 51 and 56).

Regarding claims 10 and 32, at least a blind extract that is a segmental blind extract, whose distinguishing feature is that it is divided into parts which are visually differentiated (dots) and which correspond to the segments of the words of said original extract, (vowels - column 2, lines 61-68). It is noted that Cox may not explicitly disclose said segments are units of sound of lower level than syllables. However, the segments of the original extract in Mejia's invention are lower level than syllable level, as required (see Fig. 6a: three segments make up a single syllable "height"). Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by segmenting the original extract below the syllable

level, as taught by Mejia, with the motivation of teaching the student how to sounds out words on a phoneme level.

Regarding claims 49 and 54, Cox does not explicitly disclose the words of at least one original extract are biunivocally associated to the fragments of the blind extract to which said original extract is associated, i.e. for each and every word in said original extract there exists one and only one fragment in said blind extract, and there is no fragment of said blind extract which is not associated to a word in said original extract or to some punctuation sign in said original extract (as per claims 49 and 54). However, one of ordinary skill in the art at the time of the invention would have found it obvious to try associating each word of the passage with only one blind extract. A conclusion that a claimed feature would have been obvious to try must show the following: a finding that at the time of the invention, there had been a recognized problem or need in the art, a finding that there had been a finite number of identified, predictable potential solutions, a finding that one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success, and any secondary considerations. In this case, there was a recognized need to teach language and reading skills to students by helping the students separate and distinguish the various portions of a sentence. One of ordinary skill in the art presented with the teachings of Cox would have found a finite number of identified, predictable solutions for separating a sentence into its component parts, such as phrases, words, syllables, and phonemes. Accordingly, one of ordinary skill in the art would have found it obvious to try associating each fragment of the blind extract with each word of the original extract, instead of with each syllable, as Cox teaches, with a reasonable expectation of success in teaching the student word by word, instead of syllable by syllable.

7.   Claims 14, 17, 20, 36, 39, 52, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US Patent No. 5,336,093) in view of Mejia (US Patent No. 7,011,525 B2), and further in view of Siegel (US Patent No. 5,799,267).

Regarding claims 14, 17, 36, 39 and 52, the combination of Cox and Mejia does not explicitly disclose means to graphically emphasize certain parts of at least one blind extract

among said blind extracts, using for example a special font format or some other graphical means
(as per claims 14 and 36), wherein said graphical emphasizing is performed simultaneously to the
aural reproduction of a fragment of the extract, so that the parts that are reproduced at a given
moment are approximately the same parts that are graphically emphasized at the same moment
(as per claims 17 and 39), and wherein said means can be applied to graphically emphasize at
least a fragment of said blind extract, said fragment being associated to a fragment of an original
extract, said fragment of an original extract being linguistically relevant, wherein the candidate
linguistically relevant fragments are segments, or syllables, or words or phrases (as per claim 52).
However, Siegel discloses a similar language learning method that includes means for
emphasizing parts of a passage by highlighting, and performing this emphasizing simultaneously
with the aural reproduction of the passage, where a linguistically relevant word may be further
emphasized by presenting a pictorial depiction of the word (column 11, lines 1-25). Since Cox
discloses presenting a blind extract of an original extract, and Siegel discloses the process of
highlighting a sequence of word in an extract while simultaneously presenting the fragments of
the extract aurally, and further presenting pictorial representations of relevant fragments, it would
have been obvious to one skilled in the art at the time of the invention to modify the combination
of Cox and Mejia by including means to graphically emphasize parts of the blind extract along
with the aural reproduction of certain fragments, wherein the fragments are linguistically relevant
fragments, with the motivation of helping the user to learn to pronounce the fragments by
following along visually while hearing the correct pronunciation.

Regarding claim 20, the combination of Cox and Mejia discloses allowing the user to
select fragments of the extract and perform aurally reproductions of one or more fragments of
said original extract, wherein a fragment can be the a segment, a syllable, a word, a group of
words or the whole original extract itself (column 4, lines 17-20). Cox does not explicitly disclose a
monitor, such as a computer monitor or a television means to show blind extracts on said monitor
control logic that allows a user to interact with at least one of said blind extracts, and which allows
the user to select fragments of the blind extract on the monitor to be played (as per claim 20).
Instead, Cox discloses the fragments are displayed on a page, and the fragments are played

aurally using an audio tape. However, Siegel discloses that such display of extracts on a computer monitor, and allowing the user to select extracts to be presented aurally using the computer, is well known in the art of language learning (column 4, lines 2-11; column 11, lines 1-25). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by implementing the displaying and selecting using a computer and monitor, with the motivation of being able to provide a much larger collection of extracts for presentation to the user.

Regarding claims 57 and 58, Cox discloses a system for performing the following steps:

a) managing samples of a target language, wherein each of said samples is called in this invention original extract, wherein said target language can be a foreign language or it can be the native language of the learner (see Fig. 1),

b) showing one or more blind extracts (dots) for at least one of said original extracts, wherein a blind extract is a graphical entity whose fragments have certain correspondence with fragments of an original extract said original extract being associated to said blind extract, a blind extract might contain one or more fragments, the fragments of a blind extract are created by replacing the letters of said fragments of said original extract by graphical objects that are different from the letters of said target language (column 3, lines 31-34),

d) choosing at least a fragment of a blind extract of said blind extracts wherein said fragment is associated to a fragment of an original extract of said original extracts (column 3, lines 54-67),

e) generating information about said fragment of an original extract which is associated to said fragment of a blind extract (column 3, lines 47-48), and wherein said system can be used in isolation or as a complement to other language orientated systems, for facilitating foreign language learning or for correcting a problem in the utilization of the native language.

It is noted that Cox does not explicitly disclose: for one or more of said blind extracts which are shown, the text that is associated to said language sample is not show, so that there is no interference between text and sound. However, Mejia discloses a similar system for displaying

blind extracts to student learning a language, wherein during the presentation of a blind extract, the original extract is not shown to the student (column 4, line 59 - column 5, line 32; see Fig's 5, 6a, 6b and 6i). Accordingly, it would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by not showing the original extract while showing the blind extract, as taught by Mejia, with the motivation of making the student learn the sounds of a word or passage without relying on the text of the passage.

It is further noted that the combination of Cox and Mejia does not explicitly disclose the system is a computer readable medium containing computer executable instructions that, when executed by one or more processors of a computer, allows said one of more processors to perform the steps (as per claim 57), or a computer readable medium containing a data set that, when interpreted by one or more processors of a computer, allows said one of more processors to perform the steps (as per claim 58). However, Siegel teaches the use of a computer readable medium containing instructions (or a data set) that can be executed by a processor to perform similar language teaching functions (column 4, lines 1-11). It would have been obvious to one skilled in the art at the time of the invention to modify the teachings of Cox by using a computer-readable medium executable by a processor, as taught by Siegel, to implement Cox's method, as such a modification would involve applying a known technique to a known device to yield predictable results.

Response to Arguments

8.   Applicant's arguments with respect to claims 1, 23, 57 and 58 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of $270.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

10.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Peter Egloff whose telephone number is (571) 270-3548. The examiner

can normally be reached on M-F 7:30am - 5:00 pm EDT.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Xuan Thai can be reached at (571) 272-7147. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

Peter Egloff